

GAO

Report to the Chairman, Subcommittee
on Administrative Law and
Governmental Relations, Committee on
the Judiciary, House of Representatives

November 1989

MEDICARE

Statistics on the Part B Administrative Law Judge Hearings Process



547174



United States
General Accounting Office
Washington, D.C. 20548

Human Resources Division

B-234417

November 28, 1989

The Honorable Barney Frank
Chairman, Subcommittee on Administrative
Law and Governmental Relations
Committee on the Judiciary
House of Representatives

Dear Mr. Chairman:

This letter updates the information we presented to your staff in a June 14, 1989, briefing on the administrative law judge (ALJ) portion of the Medicare Part B appeals process. As requested by your office, it provides statistical information on various aspects of the appeals process. These include the number of ALJ cases filed and their status, the outcome of cases by type of hearing sought, and the time required to complete the hearings process.

Background

Title XVIII of the Social Security Act authorizes the Medicare Part B program to provide supplemental medical insurance coverage to most individuals age 65 and older. The Health Care Financing Administration within the Department of Health and Human Services administers the Medicare program. The initial determinations about coverage of particular services and the amount of payment for Part B claims are made by carriers, which are generally Blue Shield or commercial insurance companies performing this function under contract to the Health Care Financing Administration. In fiscal year 1989, Part B covered approximately 32.4 million enrollees and paid benefits totaling about \$38.7 billion.

If a Part B claimant—an individual beneficiary or a medical provider, such as a physician, laboratory, or supplier of medical equipment or services—is dissatisfied with a coverage determination or amount of payment for health care services provided, the Medicare program provides specific appeal rights. Initially, a claimant can request the carrier that processed the claim payment to review the determination. If no agreement is reached and the disputed amount is over \$100, the claimant can then request a hearing before the carrier. This is referred to as a “carrier fair hearing.” A claimant may combine claims to meet the \$100 limitation. Before the enactment of the Omnibus Budget Reconciliation Act of 1986, claimants dissatisfied with the amount of payment on a claim had no opportunities for appeal beyond the carrier fair hearing level.

Claimants can appeal an unfavorable hearing decision to the federal courts if the disputed amount is \$1,000 or more.

Results in Brief

The results of our review are provided in detail in appendix I. In summary, we found:

1. OHA had received 5,862 requests for ALJ hearings as of June 1989. Of these cases 4,346 were pending in the Development Center, 343 were pending in the SSA regions, and 1,173 were closed. Forty percent of the cases originated in the Dallas region. The Kansas City region had closed the largest proportion of its cases—41 percent (101 of 245). (See figs. I.1 - I.3.)
2. Of the 1,173 cases closed as of June 1989, about half had been dismissed for procedural reasons or withdrawn by claimants. The remaining cases were closed with decisions—415 from on-the-record hearings and 221 from in-person hearings. Claimants choosing an in-person hearing had a substantially higher percentage of favorable decisions than did those choosing on-the-record hearings—40 percent versus 26 percent. The percentage of favorable decisions varied considerably by region. The proportion of cases favorable to the claimant ranged from 64 percent in the Dallas region to 16 percent in the Chicago region. (See figs. I.4 - I.8.)
3. For cases closed as of June 1989, from the time the case was filed until the time an ALJ decision was issued, it took an average of 154 days if on-the-record hearings were chosen, compared to 299 days for in-person hearings. Much of the processing time for both types of hearings was used in getting the case file from the carrier to OHA. For on-the-record hearings, for example, that step took an average of 74 days.¹ For in-person hearings, the most time-consuming step was assigning a case to a Development Center analyst, which took on average 104 days. (See figs. I.9 - I.11.)

Methodology

We obtained data from the OHA Hearings Office Tracking System on the Medicare Part B ALJ hearings process for appeals filed by claimants between January 1, 1987, and June 16, 1989. We verified the accuracy of the data by sampling case files. The statistical data presented in this

¹In September 1989, OHA officials told us that 88 percent of the carriers are now forwarding claims files to OHA within 10 days. They attributed this reduction to revised instructions for the process.

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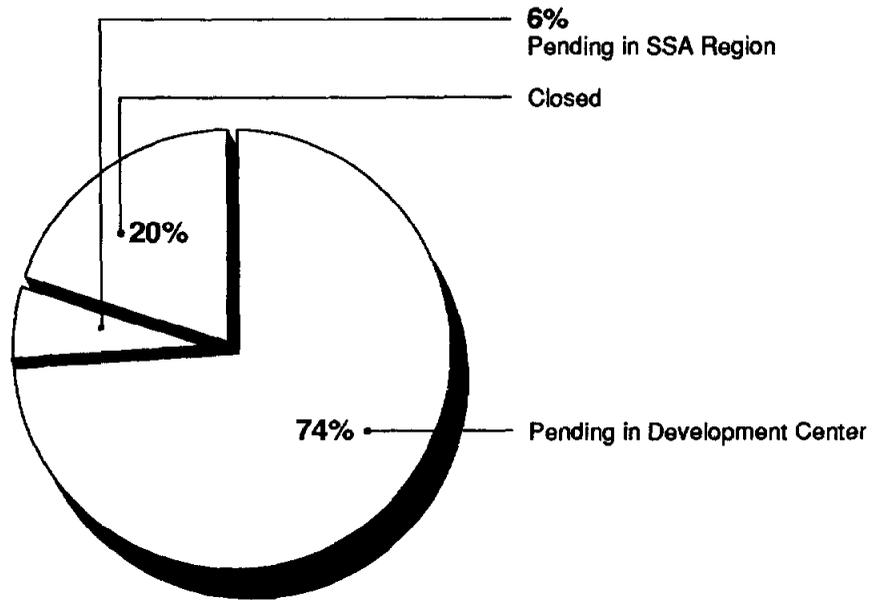
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Abbreviations

ALJ	administrative law judge
GAO	General Accounting Office
OHA	Office of Hearings and Appeals
SSA	Social Security Administration

Appendix I
Statistical Information on the
ALJ Hearing Process

Figure I.2: Status of ALJ Cases
(As of June 1989)



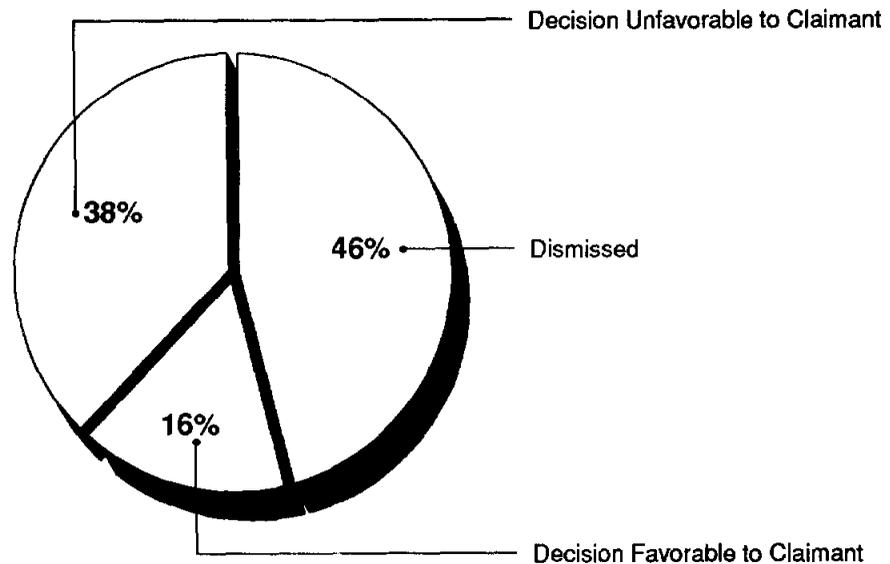
Note: A total of 5,862 cases were filed.

As of June 1989, 80 percent (4,689 of 5,862) of the cases filed were pending, most at the Development Center. The other 20 percent of the cases had been closed. (See fig. I.2.)

An OHA official commented that the high number of cases associated with the Dallas and Chicago SSA regions is misleading. He stated that many of the case filings represent large numbers of individual beneficiary claims associated with the same durable medical equipment supplier and for the same health care service. He pointed out that processing times are affected in these cases because many issues must be resolved before the ALJ hearing is held. For example, agreement must be reached on whether one hearing or multiple hearings are needed, or whether one attorney will represent all claimants or each claimant will be individually represented.

Case Outcomes

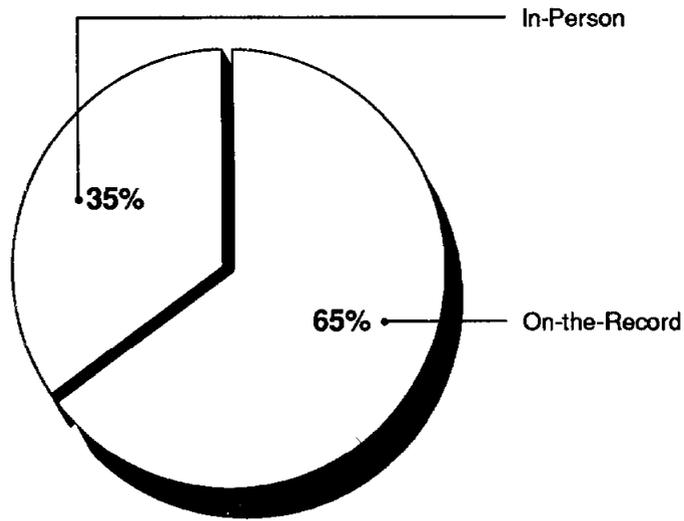
Figure I.4: Disposition of ALJ Cases by Outcome (As of June 1989)



Note: A total of 1,173 cases were closed.

Of the 1,173 cases closed, almost half (1) were dismissed because procedural requirements were not met or (2) were withdrawn by claimants. The remaining cases were closed with decisions. Unfavorable decisions outnumbered favorable decisions by a margin of 2 to 1. (See fig. I.4.)

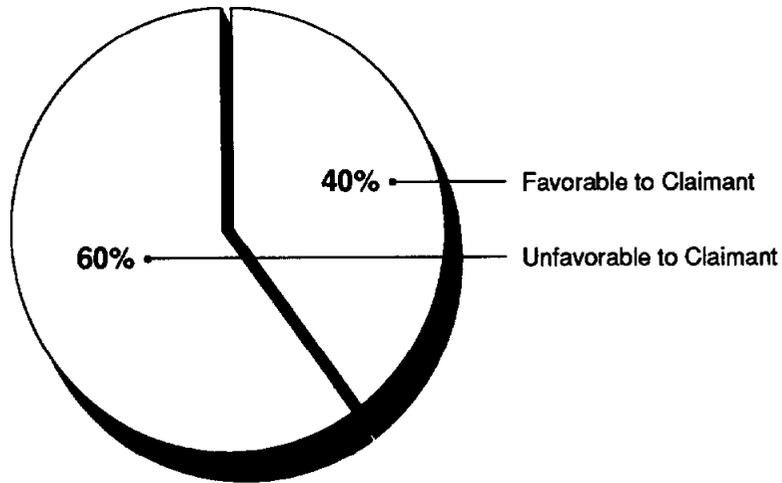
**Figure I.6: Disposition of ALJ Cases by
Hearing Type** (As of June 1989)



Note: Decisions were issued for a total of 636 cases.

On-the-record hearings accounted for 415 of 636 cases (65 percent) closed by decision. (See fig. I.6.)

Figure I.8: ALJ Decisions for In-Person Hearings (As of June 1989)

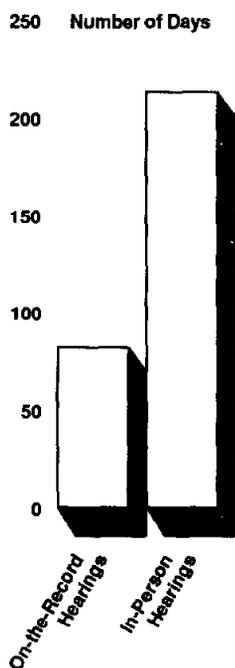


Note: Decisions were issued for 221 in-person hearings.

Claimants choosing an in-person hearing received favorable decisions in 88 of 221 cases. (See fig. I.8.) This is substantially higher than the “win” rate for on-the-record hearings shown in figure I.7.

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Figure I.10: Average Number of Days
From Receipt of Case by OHA to ALJ
Decision (As of June 1989)



Note: Decisions were issued for 415 on-the-record hearings and 221 in-person hearings.

From the time OHA received the appeal from the carrier, ALJ decisions for on-the-record and in-person hearings took an average of 82 and 213 days, respectively. (See fig. I.10.) The difference between this figure and figure I.9, which shows the average number of days from filing a case to an ALJ decision, indicates that a large amount of ALJ case processing time results from the time taken by carriers to send case documentation to OHA. Additional data are presented on pages 18-20.

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It takes more time to process an in-person case than an on-the-record case. Steps that take additional time are from (1) the time OHA puts the case on the docket to the time it is assigned to an analyst and (2) the time an analyst releases a synopsis to the time a hearing is scheduled and held. According to an OHA official, the 104 days expended in assigning a case to an analyst for in-person cases results from grouping cases together at the Development Center before analyzing and sending them to the regions.

Major Contributors to This Report

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Statistical Variance of Data on ALJ Case Processing Times

Table II.1: Variance of Data on Average Number of Days to Complete Steps for In-Person ALJ Hearings

Selected step	Number of cases	Average days	Standard deviation	Minimum value	Maximum value
Hearing request filed (from date of carrier fair hearing)	218	28.4	23.9	1	213
Hearing request received at OHA	221	85.6	59.6	10	347
Case placed on OHA docket:					
With zero values ^a	208	2.8	14.2	0	194
Without zero values ^b	57	10.5	25.9	1	194
Case assigned to analyst:					
With zero values ^a	199	99.9	91.5	0	344
Without zero values ^c	191	104.0	91.0	1	344
Case developed	142	19.3	37.5	0	205
ALJ prehearing	169	47.5	46.3	0	307
Claimant preparatory time	175	23.9	11.6	0	64
Case disposed by ALJ	202	98.9	84.6	6	326

^aZero value cases are those showing the starting and completion dates on the same day.

^bRepresents 27 percent of cases in this step.

^cRepresents 96 percent of cases in this step.

Table II.2: Variance of Data on Average Number of Days to Complete Steps for On-the-Record ALJ Hearings

Selected step	Number of cases	Average days	Standard deviation	Minimum value	Maximum value
Hearing request filed (from date of carrier fair hearing)	403	27.1	21.7	0	238
Hearing request received at OHA	413	73.6	63.9	0	554
Case placed on OHA docket:					
With zero values ^a	390	7.5	24.6	0	194
Without zero values ^b	106	27.8	41.0	1	194
Case assigned to analyst:					
With zero values ^a	371	35.1	33.3	0	221
Without zero values ^c	330	39.4	32.8	1	221
Case developed	80	61.5	72.7	0	320
Case disposed by ALJ	409	23.6	45.5	0	320

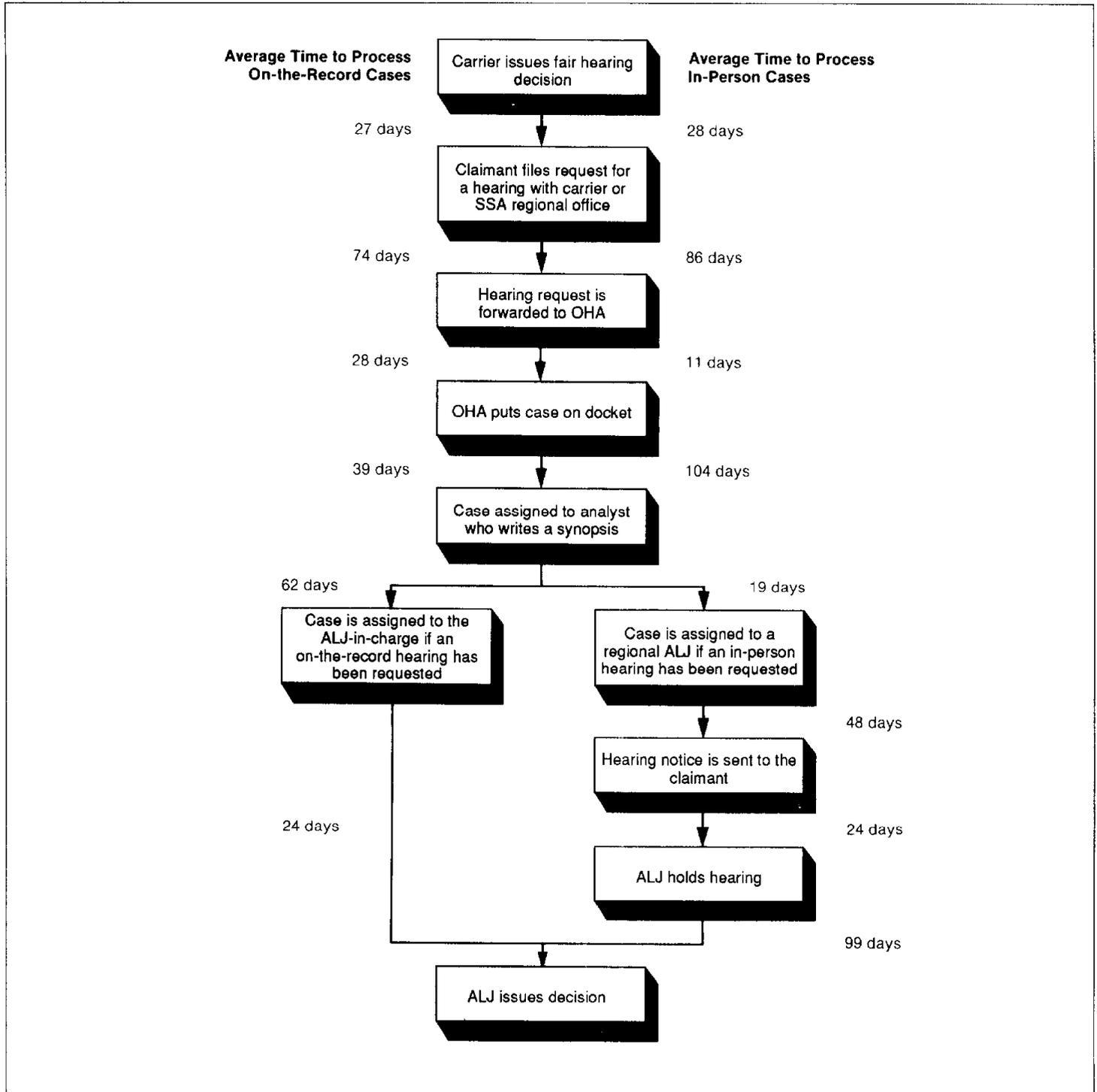
^aZero value cases are those showing the starting and completion dates on the same day.

^bRepresents 27 percent of cases in this step.

^cRepresents 89 percent of cases in this step.

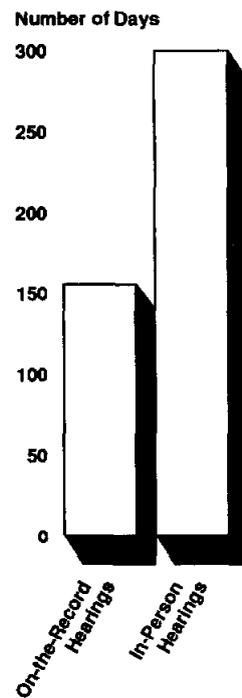
**Appendix I
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Figure I.11: Average Number of Days to Complete Steps in ALJ Hearings Process (As of June 1989)



Case Processing Times

**Figure I.9: Average Number of Days
From Filing Case to ALJ Decision**
(As of June 1989)

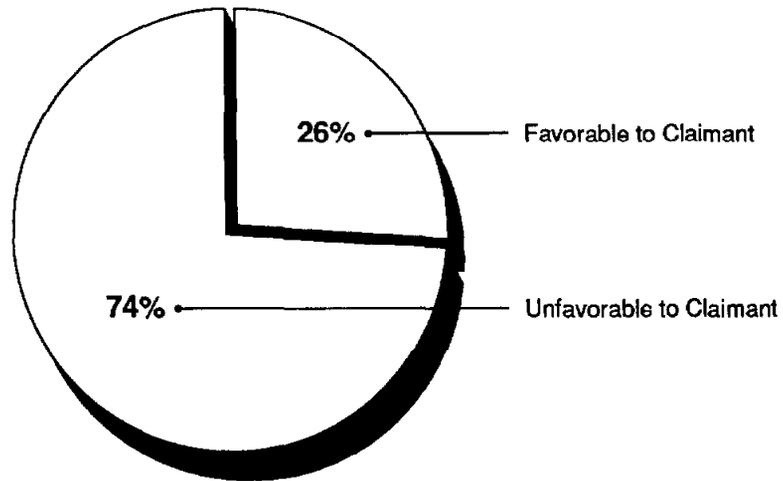


Note: Decisions were issued for 415 on-the-record hearings and 221 in-person hearings.

For ALJ cases that had been closed as of June 1989, on-the-record decisions were issued, on average, 154 days after the appeal was filed. It took almost twice as long for in-person decisions to be issued. (See fig. I.9.) Additional statistical data are presented on page 20.

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Figure I.7: ALJ Decisions for On-the-Record Hearings (As of June 1989)



Note: Decisions were issued for 415 on-the-record hearings.

Decisions for on-the-record hearings favored the claimant in 106 of 415 cases. (See fig. I.7.)

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Figure I.5: Percent of Decisions Favorable to Claimant by SSA Region
 (As of June 1989)

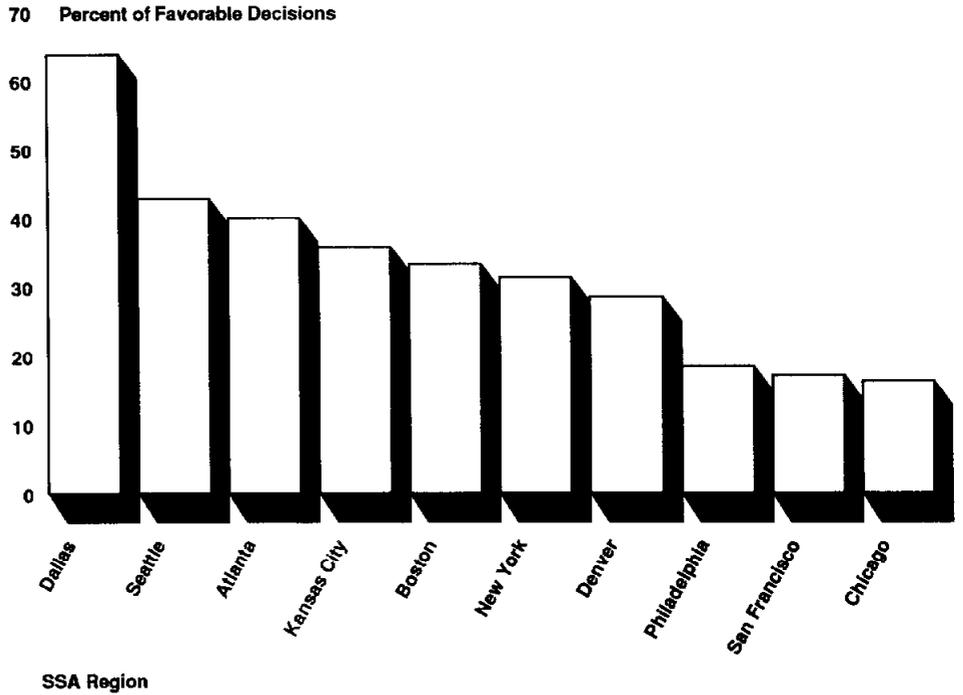


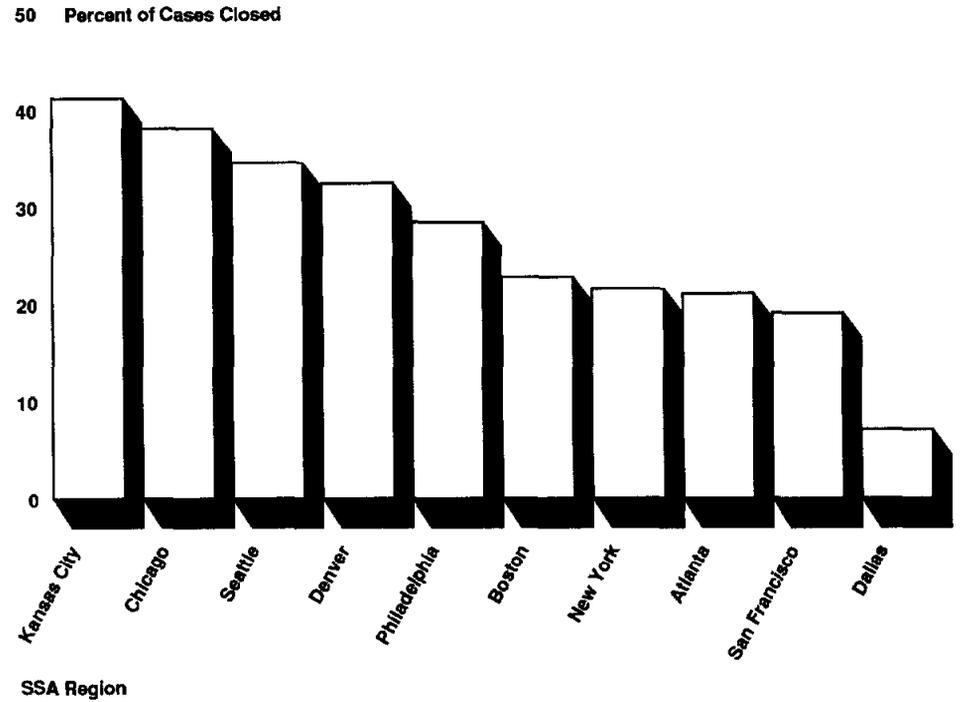
Table I.2: Decisions by SSA Region

SSA region	Total number of decisions
Dallas	83
Atlanta	50
Seattle	14
Kansas City	81
Boston	6
New York	102
Denver	14
Philadelphia	38
San Francisco	64
Chicago	184
Total	636

Almost two-thirds of the decisions issued for cases originating in the Dallas region were favorable to the claimant. By comparison, only 16 percent of the decisions issued for Chicago region cases were favorable. (See fig. I.5.)

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Figure I.3: Percent of Cases Closed by
 SSA Region of Origin (As of June 1989)



Note: A total of 1,173 cases were closed.

Table I.1: Cases Filed by SSA Region

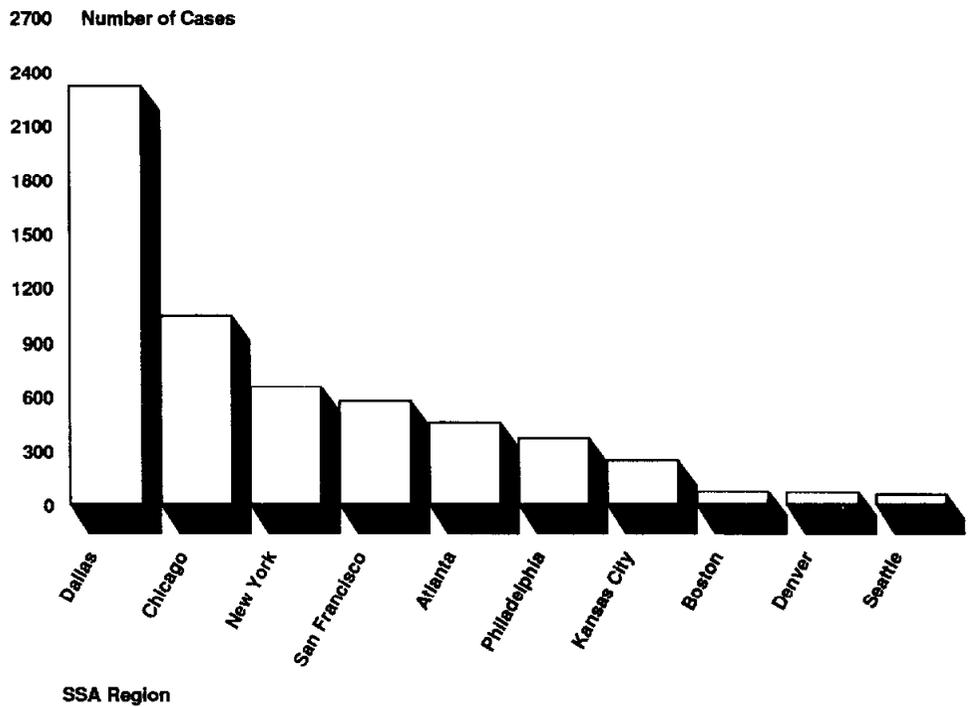
SSA region	Number of cases filed
Dallas	2,318
Chicago	1,044
New York	655
San Francisco	574
Atlanta	456
Philadelphia	369
Kansas City	245
Boston	75
Denver	71
Seattle	55
Total	5,862

The Kansas City region closed the largest percentage of its cases—41 percent (101 of 245). The Dallas region, which had the largest number of cases, closed the lowest percentage. (See fig. I.3.)

Statistical Information on the ALJ Hearing Process

Number and Status of Cases

Figure I.1: Number and Origin of ALJ Cases by SSA Region (As of June 1989)



Note: A total of 5,862 cases were filed.

Since January 1, 1987, when the ALJ hearing became an appeal option for health care payments made under Medicare Part B, 5,862 cases have been filed. Forty percent of these cases originated in the Dallas region. (See fig. I.1.)

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report are derived solely from information in the tracking system. We did not assess the extent to which case complexity might have affected the outcome or processing time for the appeals. Statistical variance associated with data on the average number of days to complete selected steps in the ALJ hearings process is presented in appendix II.

As requested by your office, we did not obtain written agency comments on this report. However, we discussed its contents with OHA and Health Care Financing Administration officials and incorporated their comments where appropriate. We performed our work between March and July 1989.

Unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from its issue date. At that time, we will make copies available to interested parties. If you have any questions on the information in this report, please call me on (202) 275-1655. Other major contributors are listed in appendix III.

Sincerely yours,



Linda G. Morra
Director, Intergovernmental
and Management Issues

The act enhanced claimants' appeal rights by providing options for ALJ hearings and judicial review. For disputes related to health care services provided since January 1, 1987, claimants can request an ALJ hearing if the disputed amount is at least \$500 and, if still dissatisfied, can appeal to the federal courts if the disputed amount is over \$1,000.

ALJ Hearings Process

Medicare Part B appeals are handled by designated ALJs in the Social Security Administration's (SSA) Office of Hearings and Appeals (OHA). There are Part B-designated ALJs in each of SSA's 10 regions and a Part B-designated ALJ-in-charge located at OHA's Medicare Part B Development Center in Arlington, Virginia.

Within 60 days of the receipt of a carrier fair hearing decision, a claimant may request an ALJ hearing by submitting a written request to the carrier or to any SSA regional office. The carrier or regional office forwards the request to OHA's Development Center. Staff in the Development Center contact claimants by letter to determine whether the claimant wants an on-the-record or in-person hearing.

The Part B ALJ-in-charge handles all on-the-record hearings. These "hearings" consist of case file reviews by the ALJ-in-charge. An in-person hearing is held before a Part B-designated ALJ in the SSA region where the claimant is located. For in-person hearings, the claimant or the claimant's representative presents the case in a meeting with the ALJ.

All cases go first to a Development Center analyst, who reviews the case file for completeness and conformity with procedural requirements. Cases not meeting requirements are dismissed. For example, claimants not filing an appeal within 60 days of the carrier fair hearing decision will have their cases dismissed.

When the case file is complete, the analyst develops a synopsis of the case. If an on-the-record hearing has been requested, the synopsis consists of initial factual findings and a recommended decision with rationale. If an in-person hearing is requested, the synopsis consists only of the initial facts. Case files and related synopses are sent to the ALJ that will conduct the hearing and issue the decision. For an on-the-record hearing, the decision of the ALJ-in-charge may be an endorsement or modification of the analyst's recommendation or prepared entirely from the ALJ's assessment of the case.

